

ATTACHMENT 1

September 10, 2017

VIA CM/ECF Filing

Honorable Roy S. Payne
United States Magistrate Judge
Sam B. Hall, Jr. Federal Building and
United States Courthouse
100 East Houston Street
Marshall, TX 75670

Re: Huawei Techs. Co. Ltd. v. T-Mobile US, Inc. et al., Nos. 2:16-cv-00052, -00055, -00056, -00057

Dear Judge Payne:

T-Mobile respectfully submits this letter regarding case and trial management of the cases identified above. As the Court is aware, jury selection for the -52 case is scheduled for October 2, 2017. Jury selection for the remaining cases (the -55, -56 and -57 cases) is scheduled for November 6, 2017.

As originally filed, the -52 case involved four asserted patents, but the case will soon be substantially narrowed, in that the parties are finalizing a stipulation to dismiss two of the patents (the '365 and '617 patents). Moreover, the -52 case should be reduced to one patent (the '462), because Huawei cannot in good faith proceed with its case on the '339 patent. T-Mobile submits that in light of the Court's rulings on T-Mobile's summary judgment motions for non-infringement, including the Court's finding that the claim elements of the '339 patent contain 3G-specific messages and not the 4G messages in T-Mobile's LTE network that Huawei has accused of infringing, there is no basis for Huawei to continue to assert that patent. T-Mobile requested that Huawei drop the '339 patent in light of this Court's rulings and the lack of any meritorious infringement position. Huawei, however, has expressed its intention to proceed with the '339 patent. Accordingly, at tomorrow's pretrial conference, T-Mobile intends to raise with the Court Huawei's refusal to drop its allegations regarding the '339 patent.

With three other cases also pending, T-Mobile submits that, conducting a jury trial regarding only the '462 patent (and a severely diminished case on the '339 patent, if any) in October is not an efficient use of the Court's or the parties' resources. Instead, T-Mobile requests that the Court vacate the -52 trial setting and move the '462 patent (and '339 patent, pending T-Mobile's motion for judgment on those claims) into the -56 case, which has only one asserted patent remaining. The -55 case, which is the next case, already involves four patents, which is why T-Mobile suggests that the '462 patent from the -52 case be moved to the -56 case. (The last case, the -57 case, involves three patents.)

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T-Mobile's proposal would be more economical for both the parties and the Court because it would allow all asserted patents to be adjudicated in three, rather than four trials. Moreover, by combining the -52 case into the -56 case, the parties can prepare to try the -55 case with four patents, for which the Court has scheduled a November 6, 2017 jury selection. Because the Court has scheduled the second trial to begin only three weeks after the expected conclusion of the currently scheduled -52 case, Huawei will suffer no prejudice from this proposal.

T-Mobile has presented these trial management proposals to Huawei. Huawei stated that it would not agree to T-Mobile's proposed scheduling change at the present time, but would take it under consideration.

Respectfully submitted,

By: /s/ Mark N. Reiter

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